

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERNEST GUTIERREZ,

Petitioner,

v.

No. 13-cv-1061 LH/SMV

FNU JOHNSON, et al.,¹

Respondents.

ORDER

This matter is before the Court on Applicant's Motion to Amend [Doc. 7] filed on November 5, 2013. Applicant enclosed voluminous exhibits when he submitted his Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. The Clerk returned the exhibits pursuant to Local Rule 10.4. Applicant then filed his motion to amend, asking the Court to accept the exhibits for filing. Having reviewed the proposed filings, the Court finds that they are evidentiary materials that do not "form the basis for the action," D.N.M.LR-Civ. 10.4, and should be returned to Applicant. Applicant may re-submit these materials only if the Court enters a discovery order that specifically allows the documents to be filed. *See* Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts. The Clerk may return any such materials that are submitted without express leave of the Court.

IT IS ORDERED, ADJUDGED, AND DECREED that Applicant's Motion to Amend [Doc. 7] filed on November 5, 2013, is **DENIED**.

¹ On November 1, 2013, the Court substituted German Franco as the sole respondent in this case. [Doc. 5]

IT IS FURTHER ORDERED that the Clerk is directed to return Applicant's proposed exhibits with a copy of this Order.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Vidmar', is positioned above a horizontal line.

STEPHAN M. VIDMAR
United States Magistrate Judge